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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Jammu and Kashmir Council for Human Rights (JKCHR), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Promotion and protection of all human rights in Jammu and Kashmir

Human Rights Council while discussing the full regime of human rights at the 30th session, in particular civil and political rights, has a duty to consider the social, political and economic atmosphere that has continued to prevail in the State of Jammu and Kashmir.

Indian security forces continue to violate the terms set for their temporary admission, into Jammu and Kashmir, namely, "defend territory and to protect the lives, property and honour of people". These forces have also failed to honour the stipulations contained in 21 April 1948 Security Council Resolution on their number, behaviour and location. They are engaged in a war with the people, that they were assigned to protect.

A generation of Kashmiri youth has been killed since 1990 and the part of the State under Indian control has gained notoriety of being the second poorest State in India. According to National Sample Survey Office (NSSO) of the Union Ministry of Statistics and Programme Implementation the number of households living below poverty line in Jammu and Kashmir has risen to 4.17 lakhs. The poverty rate in the state rose from 9.4 per cent in 2009-10 to 10.35 per cent in 2011-12, mainly due to an increase in the number living below the poverty line (BPL) in rural areas from 8.1 per cent to 11.5 per cent.

Government of India is subject to obligations and responsibilities under the terms of provisional accession and further obligations under UNCIP resolutions. Government of India may for its own reasons feel uneasy with its international obligations on Kashmir, but it can't afford to renege on its Charter duties as a member nation of the UN.

The Council is required to consider and recommend on the low intensity war going on between the common citizen of Indian administered part of Kashmir (Valley in particular) and the Indian security forces since 1990, and its impact on the life and habitat. Human Rights violation in the Valley has continued to echo regularly at the UN World Conference on Human Rights (Vienna), Human Rights Commission, Sub Commission, Human Rights Council and the UN General Assembly from early 1990. Indian Government became a subject of Resolutions L40 and L21 at the Human Rights Commission and the Sub Commission, for her gross and systematic violation of human rights.

The human rights situation in the Valley of Kashmir has not improved. Muslims remain a target population. Elderly Kashmiri leader Syed Ali Shah Geelani continues to suffer a house arrest at his Haider Pora Residence in Srinagar and is continually denied to step out to offer Friday prayers at a local mosque in accordance with Muslim faith. He has not been allowed to offer Eid prayers that fall due on two occasions after Ramadan in a year. He is denied right of association and right of expression, to be free and communicate with the people in a peaceful manner. It is a violation of the rights guaranteed in para 12 of UN Resolution of 21 April 1948.

Dr. Mirwaiz Umar Farooq another senior leader is regularly interrupted in his Friday appearances at Jamia Mosque of Srinagar. Shabir Ahmad Shah another senior leader continues to suffer house arrests and denial of offering his Friday prayers for over some time. Kashmiri leaders in particular Hurriyat leaders and others opposed to Indian non-compliance of UN mechanism on Kashmir and advocating the jurisprudence of UN Resolutions on Kashmir, are denied passport facilities. Over 60,000 families in Jammu and Kashmir are "indexed not to receive CID clearance" for passports.

Indian secret agencies in the Valley have an overwhelming and final control to determine the manner of life. Delhi has now announced a dangerous doctrine to "kill a terrorist by another terrorist". There are difficult days ahead for Muslims in the Valley. Indian Defence Minister Manohar Parrikar has announced a dangerous doctrine to "neutralize and kill terrorists through terrorists." Anyone in dissent could be tagged as a terrorist and killed. Defence Minister was speaking at an event organized by a local news channel in New Delhi when he said, "We have to neutralize terrorists through terrorists only. Why can't we do it? We should do it. Why does my soldier have to do it?" In fact it would be an Indian soldier or his proxy killing a native State Subject.

India has used counter terrorists in Jammu and Kashmir since early 1990s and the policy sent a generation of Kashmiri youth to the grave. However, this time India may have an elaborate and aggressive plan to repeat in the Valley, in AJK

(Azad Jammu and Kashmir), Gilgit and Baltistan and even in some parts of Pakistan. Pakistan is a nuclear sovereign State and has all means to respond. The people of Kashmir have only a case at the UN and no military defence, unless Indian establishment means to provoke the Kashmiri youth once again and use the excuse to send another generation to the grave.

Adviser to the Prime Minister of Pakistan on National Security and Foreign Affairs, Sartaj Aziz has responded saying, "It only confirms Pakistan's apprehensions about India's involvement in terrorism in Pakistan. It must be the first time that a Minister of an elected government openly advocates use of terrorism in another country on the pretext of preventing terrorism from that country or its non-state actors."

Jammu and Kashmir is a disputed state and the principal law that retains the principality of its citizens is the State Subject Law of 1927. It pre-dates the emergence of India and Pakistan as two independent sovereign States in 1947. There are reports that Government of India has plans to setup colonies in the valley to settle retired army and paramilitary personnel. After the death of a Muslim generation in the Kashmir Valley, resulting into a numerical deficit, the present settlement plan is looked upon with suspicion by Muslims.

They regard it as a secret agenda to settle non-State Subjects and change the demographic structure of the state and its disputed nature. Concerns of Muslims and Christians living in the Valley are further aggravated by the claims made by Rashtriya Swayamsevak Sangh (RSS) leaders in particular Dr. Pravin Tagodia that "Muslims and Christians in India were Hindus". RSS, along with other parties like Vishva Hindu Parishad (VHP) and Dharma Jagran Manch have been arranging mass conversions of Muslims and Christians into Hinduism under a program called "Ghar-Wapasi" (Return to Home) all over India.

The political right to participate in local elections through a free and fair vote in the Indian administered part of Kashmir has always remained suspect. It was the rigged election of 1987 that gave rise to an armed struggle against Indian presence in Jammu and Kashmir. These Muslim suspicions are credited by former RAW (Research & Analysis Wing) chief A S Dulat in his book "Kashmir-The Vajpayee Years". At page 205 he writes, "The IB (Intelligence Bureau) had a sinister reputation in the Kashmiri mind. Part of it was because since Independence, the IB had basically been running Kashmir, advising the home ministry and reporting directly to the prime minister on whatever happened there…The IB in J&K, had a fair amount of Kashmiri Pandits. One should not forget that when Sheikh Abdullah was arrested a conspiracy case was filed against him. It was put together by the IB".

How Indian army and secret agencies manipulate lives in Kashmir is a disheartening tale. The former chief of the spy agency further writes at page 231 and 232, "Thus the AFSPA (Armed Forces Special Powers Act) is a dirty word not just in Kashmir but in the States in the north-east as well…Yet the AFSPA is linked to the bigger question how much power the army is wielding, and the movement in Kashmir has provided the army an opportunity to expand its presence in J&K. Though the army justifies its heavy deployment by periodically raising the bogie of infiltration, it is not restricted to the border; many Kashmiris feel the army has turned the entire Valley into a cantonment". He adds, "It's different thing that nowadays the generals make the army out to be indispensable by offering some theory or another about infiltration and terrorism every six months or so".

It is high time that Human Rights Council takes cognizance of the habitat under the Indian administration turned into a 'cantonment' by the army and make a recommendation that restraints of number, behavior and location put on the Indian forces in the 21 April 1948 UN Security Council Resolution are enforced, as an immediate relief to the Muslims in the Valley.

Rights do not have an expiry date. The people of Scotland went to a referendum after a 307 year old union with England. The 307 year old Scottish union with England was saved by a 55% No vote to Independence against a 45% Yes vote. People of Kashmir have yet to cast their free vote under UN supervision.